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Attorney for Plaintiff
Center for Environmental Health

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR ENVIRONMENTAL HEALTH
a California non-profit corporation,

Plaintiff,

v.

EASTERN AMERICA TRIO PRODUCTS, INC.
and **DOES I-X,**

Defendants.

CASE NO. C 08-03250 WHA

STIPULATION OF PARTIES
IN SUPPORT OF REMAND;
ORDER (~~Proposed~~)

Trial: November 30, 2009

The parties through their respective counsel hereby stipulate that plaintiff Center for Environmental Health does not have standing to bring a Proposition 65 case in federal court and therefore this court does not have jurisdiction over this case. The parties stipulate that the federal court does not have jurisdiction in cases seeking to enforce the warning provisions of Proposition 65. Toxic Injuries Corporation v. Safety-Kleen Corporation, 57 F. Supp. 2d 947 (C.D. Cal. 1999).

Counsel for Defendant, Eastern America Trio Products, Inc. ("Defendant"), removed this case in good faith, being unaware of the above-cited case and rule, and notes that the Ninth Circuit Court of Appeals, in a case involving both the citizen-suit provision of the federal Clean

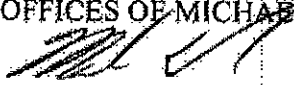
Water Act and California's Proposition 65, Ecological Rights Foundation and Mateel Environmental Justice Foundation, 230 F.3d 1141 (9th Cir. 2000), found standing, but did so in an opinion that only mentioned the Clean Water Act and not Proposition 65. Defendant accordingly agrees with Plaintiff that this Court lacks jurisdiction because Plaintiff lacks the required standing.

Each party will bear its own costs attorney's fees incurred during the time this case was pending in this Court.

Accordingly, the parties respectfully request that this Court remand the case to the Superior Court of the State of California for Alameda County where the case was initially filed.

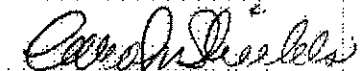
Dated: August 6, 2009

LAW OFFICES OF MICHAEL FREUND


Michael Freund
Attorney for Plaintiff
Center for Environmental Health

Dated: July 31, 2009

LIU & SHIELDS LLP

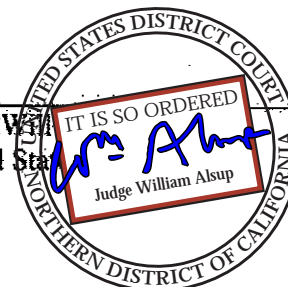

Carolyn Shields
Attorney for Defendant
Eastern America Trio Products, Inc.

ORDER

GOOD CAUSE APPEARING, this case is remanded to the Alameda County Superior Court.

DATED: August 31, 2009.

Judge William
United States



Case No C08-03250 WHA